

REMARKS

The non-Final Office Action dated July 8, 2008, has been received and reviewed. Prior to this communication, claims 1-2, 7 and 53 were pending. All claims stand rejected. Claims 1-2, 7 and 53 are now pending in the subject application. No claims have been amended, canceled, or added. Reconsideration of the present application in view of the above amendments and the following remarks is respectfully requested.

Rejections based on 35 U.S.C. § 103(a)

The basic requirements of a *prima facie* case of obviousness are summarized in MPEP §2143 through §2143.03. In order “[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success [in combining the references]. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)”. See MPEP §2143. The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying: the scope and content of the prior art; the level of ordinary skill in the prior art; the differences between the claimed invention and prior art references; and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). To support a finding of obviousness, the initial burden is on the Office to apply the framework outlined in *Graham* and to provide some reason, or suggestions or motivation found either in the prior art references themselves or in the knowledge generally

available to one of ordinary skill in the art, to modify the prior art reference or to combine prior art reference teachings to produce the claimed invention. *See, Application of Bergel*, 292 F. 2d 955, 956-957 (1961).

Recently, the Supreme Court elaborated, at pages 13-14 of the *KSR* opinion, that “it will be necessary for [the Office] to look at interrelated teachings of multiple [prior art references]; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by [one of] ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the [patent application].” *KSR v. Teleflex*, 127 S. Ct. 1727 (2007). Further, in establishing a *prima facie* case of obviousness, the initial burden is placed on the Examiner. “To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 USPQ 972, 972 (Bd. Pat. App. & Inter. 1985).” *Id.* *See also* MPEP §706.02(j) and §2142.

Claims 1-2 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,130,904 to Kitchin (hereinafter “the Kitchin reference”) in view of U.S. Patent No. 6,847,620 to Meier (hereinafter “the Meier reference”). As these references, whether taken together or separately, fail to describe each and every element as set forth in the rejected claims, Applicants respectfully traverse this rejection, as hereinafter set forth.

Claim 1 is directed to an access point device that serves as a common access point for communication in a wireless LAN. The access point device of claim 1 is configured, in part, to receive a request from an end station that is an association request or a probe request and then

process the request. The access point device of claim 1 processes such requests by determining for the request a BSS that is unknown to the access point device at the time of receipt, receives at least one parameter defining the BSS, establishes the BSS based on the at least one parameter, and sends a response to the end station that includes a BSSID of the established BSS.

The Kitchin reference describes a multiple link layer access point that allows for communication between subscribers in a wireless network. *See Kitchin reference*, abstract. The Meier reference describes a mobile virtual LAN that permits grouping of stations. *See Meier reference*, col. 1, lines 47-49. In the Office Action, it is contended that the Kitchin reference teaches every limitation of claim 1, except that Kitchin does not teach the step of determining a BSS that is unknown to the access point device, when processing the request. *Office Action*, page 3. The Office Action further states that the Meier reference teaches such a limitation. Applicants respectfully disagree with this contention.

The Meier reference, more specifically, teaches configuring a VLAN AP “to provide an IP subnet roaming capability for non-VLAN IP stations.” Col. 17, lines 1-3. The Meier reference discusses VLAN IDs, and not BSSIDs. The Office Action equates establishing a BSS and BSSID with a subnet-ID/VLAN binding. However, these are not the same. A BSSID is generally a MAC address for the access point. A VLAN ID identifies an association between a host and subnet. A feature of the present invention lies in the ability of the access point device to create a previously unknown BSS. . The Meier reference, on the other hand, describes using a VLAN ID within a network. In fact, the Meier reference is based on an assumption “that VLAN-unaware stations in a BSS belong to the local VLAN” or subnet. Col. 3, lines 14-17. However, the Office Action fails to explain how Meier’s VLAN roaming discloses determining a new BSS as claimed by the Applicant.

Accordingly, claim 1 is patentable over the cited references, and thus, Applicants respectfully request the withdrawal of the § 103(a) rejection against this claim. As claim 2 depends from claim 1, Applicants request the withdrawal of the § 103(a) rejection against this claim for at least the above-cited reasons. Further, claim 7 includes similar limitations as that set forth above with respect to claim 1.

Claim 53 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kitchin reference in view of the Meier reference, and further in view U.S. Patent Publication No. 2001/0048744 to Kimura (hereinafter “the Kimura reference”). As set forth above, the Kitchin and Meier references do not teach or suggest each and every element of independent claim 1. With this rejection, the Kimura reference fails to cure the deficiencies of the Kitchin and Meier references. As such, claim 53 is patentable over the Kitchin, Meier, and Kimura references, and, accordingly, the 35 U.S.C. § 103(a) rejection of this claim is respectfully requested.

CONCLUSION

For at least the reasons stated above, claims 1-2, 7 and 53 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or aeblen@shb.com (such communication via email is herein expressly granted) – to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,

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